

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WILLIAMS AMES, JR., et al.,)	
)	
Plaintiffs,)	
)	
v.)	Cause No. 4:19-CV-00173 SRC
)	
ST. FRANCOIS COUNTY SHERIFF'S)	
DEPARTMENT, et al.,)	
)	
Defendants.)	

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ON ALL COUNTS
OF THE PLAINTIFFS' FIRST AMENDED COMPLAINT**

Come now Defendants and move for summary judgment on all counts of Plaintiffs' First Amended Complaint. In support thereof, Defendants state as follows:

1. Plaintiffs' First Amended Complaint is not well-pleaded. The identity of the Defendants being sued is unclear in several counts. Most confusing, they seem to mix-and-match "death claims" with "personal injury" claims at least in some counts. Defendants address the death claims separately from the personal injury claims.

2. All five counts of the First Amended Complaint purport to state a death claim. However, Plaintiffs present no competent evidence that William Ames, III ("Ames") died as a result of any wrongdoing of any Defendant. Accordingly, the claims related to Ames' death fail for lack of proof of causation.

3. Further, Defendant Dennis Smith, Hardy White, Jacob Lunsford and Nurse Heather Smith had no interaction (or, in the case of Lunsford, relevant interaction with Ames) and therefore the claims against them fail.

4. The remaining individuals were not deliberately indifferent to Ames' medical needs

and therefore, are entitled to qualified immunity.

5. With respect to Defendant St. Francois County (and the Sheriff's Department if it is determined to be an entity subject to suit) and Defendants Dennis Smith and Hardy White ("Supervisory Defendants"), Plaintiffs fail to prove any actionable policy, custom, pattern of unconstitutional conduct, or failure to train. Specifically, Plaintiffs offer no other instances of unconstitutional conduct and the training of the deputies was well beyond that recognized to be adequate in the Eighth Circuit.

6. Further, Plaintiffs' ADA claim (Count IV) fails because there is no evidence that any Defendant intentionally and knowingly discriminated against Ames; specifically, there is no evidence that any Defendant even knew that he had a seizure disorder or was a qualified individual under the statute. Accordingly, Plaintiffs cannot prove that any Defendant was deliberately indifferent to Ames' alleged protected status.

7. The state law Wrongful Death Claim (Count V) is barred under the doctrines of sovereign immunity, public duty doctrine and official immunity.

8. With respect to personal injury claims (believed to be asserted in Count III), again the Individual Defendants were not deliberately indifferent to Ames and are entitled to qualified immunity on such claim(s). The County and Supervisor Defendants are entitled to summary judgment for lack of proof of any policy, custom, pattern of unconstitutional acts or failure to train.

9. Defendants adopt and incorporate herein by reference their *Memorandum of Law* filed herewith.

WHEREFORE, Defendants pray for an Order granting summary judgment in their favor on all counts of Plaintiffs' First Amended Complaint together with such other and further relief as may be just and proper.

Respectfully submitted,

/s/ William A. Hellmich

William A. Hellmich, #31182MO
Michelle V. Stallings, #57833MO
HELLMICH, HILL & RETTER, LLC
1049 North Clay Avenue
Kirkwood, MO 63122
314-646-1110 – Phone
314-646-1122 – Fax
bill@hellmichhillretter.com
michelle@hellmichhillretter.com

Attorneys for Defendants

and

Ross D. McFerron, #60047MO
OSBURN, HINE & YATES, LLC
3071 Lexington Avenue
Cape Girardeau, MO 63701
573-651-9000 – Phone
573-651-9090 – Fax
rmcferron@ohylaw.com

Attorney for Defendant St. Francois County

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court this 15th day of September, 2020 to be served by operation of the Court's electronic filing system upon all parties through their counsel registered with CM/ECF.

Vonne L. Karraker
Manley, Karraker & Karraker, P.C.
110 S. Jefferson Street
Farmington, MO 63640
vonne@semoelderlaw.com

Vincent Colianni, II
Marina Leonard
Colianni & Colianni, LLC
4001 Village Run Road
Wexford, PA 15090
vinny@colianni.com
marina@colianni.com

/s/ Michelle V. Stallings